vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5786 OF 1998

Suresh Vishnu Lokhande ... Petitioner

V/s.

Dattatraya Laxman Narute & Ors. ... Respondents

Mr.R.S. Apte for Petitioner
Mr.M.H. Solkar, AGP, for State

a/w

WRIT PETITION NO.5770 OF 1998

S.V. Lokhande ... Petitioner

V/s.

D.L. Narute & Ors. ... Respondents

Mr.Tejpal Ingale for Petitioner
Mr.S.A. Sawant for Respondent No.1
Mr.M.H. Solkar, AGP, for Respondent No.3

and

WRIT PETITION NO.1324 OF 1999

D.L. Narute ... Petitioner

V/s.

Sane Guruji Shikshan Sanstha,
Kurundwad through its
Chairman & Ors. ... Respondents

Mr.S.A. Sawant for Petitioner
Mr.R.S. Apte for Respondent No.1
Mr.Tejpal Ingale for Respondent No.2
Mr.M.H. Solkar, AGP, for Respondent Nos.3 and 4

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 19, 2007**

ORAL JUDGMENT:

. All these petitions challenge the order of the

School Tribunal dated 18.8.1998. The appeal before the School Tribunal was filed by the petitioner in Writ Petition No.1324 of 1999. The petitioner in Writ Petition No.1324 of 1999 Dattatray Laxman Narute (for short, hereinafter referred to as "Narute") filed the appeal because he was aggrieved by the decision of the management, who is the petitioner in Writ Petition No.5770 of 1998, to promote the petitioner S.V. Lokhande in Writ Petition No.5786 of 1998 as Headmaster.

2. The management had filed a Letters Patent Appeal after the order of the learned Single Judge rejecting its application for interim relief when its petition was admitted. The Division Bench in the Letters Patent Appeal on 7.4.1999 granted interim relief to the management and stayed the execution, operation and implementation of the impugned judgment and order dated 18.8.1998. As a result, Lokhande continued in service as a Headmaster. Today, Narute has already retired from service with the Management w.e.f. 30.4.2002.

3. The School Tribunal had concluded that the action of the management in promoting Lokhande to the post of Headmaster was contrary to law and the Government Resolution issued on 25.5.1990. Admittedly, Narute belonged to the Dhangar community which was included in the other backward classes. By the G.R. of

25.5.1990, the Dhangar community was treated as a Nomadic Tribe. Thereafter another G.R. was issued on 18.6.1994 wherein the Government clarified that the Dhangar community was to be treated as a Nomadic Tribe only for the purposes of direct recruitment and the reservation would not be available to the community for the purposes of promotion.

4. Admittedly, when Lokhande was sought to be promoted w.e.f. 1.1.1995, the G.R. of 18.6.1994 was already in force. The management, therefore, considered the effect of both the G.Rs dated 25.5.1990 and 18.6.1994 and promoted Lokhande who belongs to the Nomadic Tribe. On a bare perusal of the impugned decision of the School Tribunal, it is obvious that the School Tribunal has not referred to the Resolution dated 18.6.1994 wherein it has been categorically stated that the reservation for the Dhangar community as Nomadic Tribe would not be available for the purposes of promotion. The impugned judgement must therefore be set aside.

5. In the result, Writ Petition No.1324 of 1999 is dismissed. Writ Petition Nos.5770 of 1998 and 5786 of 1998 are allowed.